



Entered on Docket
December 16, 2010

A handwritten signature in cursive script, reading "Bruce A. Markell".

Hon. Bruce A. Markell
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

SOUTH EDGE, LLC,

Alleged Debtor.

Case No. 10-32968
Chapter 11

Scheduling Order

This case was commenced by the filing of involuntary bankruptcy petition on December 9, 2010. Upon the request of the petitioners, this Court conducted a Chapter 11 status conference on December 13, 2010. At the status conference, the Court scheduled certain trial dates and directed the parties to cooperate in the preparation of this order. Good cause appearing from the stipulation of the parties,

1 IT IS ORDERED:

2 1. The Court will conduct an evidentiary hearing on Wednesday, January 19,
3 2011, beginning at 9:30 a.m. on Motion to Appoint an Interim and Permanent Chapter 11
4 Trustee for South Edge, LLC During (i) the “Gap” Period and (ii) On a Permanent Basis;
5 Memorandum of Points and Authorities [DE 7].

6 2. The Court will conduct an evidentiary hearing on Monday, January 24,
7 2011; Wednesday, January 26, 2011; Wednesday, February 2, 2011; Thursday, February
8 3, 2011; and the morning of February 4, 2011, each day beginning at 9:30 a.m. on the
9 involuntary petition and South Edge, LLC’s (“Debtor”) objection thereto.

10 3. In light of the foregoing, the status conference on the involuntary petition
11 scheduled by DE 60 for January 18, 2011 at 10:00 a.m. is vacated.

12 4. Due to the agreement of the parties reflected in this order, the status
13 conference scheduled for 9:00 a.m. on December 17, 2010 is vacated.

14 In connection with the evidentiary hearings, the following shall be applicable.

15 5. **Protective Order.** South Edge and the Petitioning Creditors shall endeavor
16 to agree upon a Stipulated Protective Order substantially in the form of the Stipulated
17 Protective Order used in the litigation before Judge Pro.

18 6. **Privilege.** South Edge and the Petitioning Creditors will endeavor in good
19 faith to produce privilege logs on or before the close of discovery.

20 7. **Discovery.**

21 a. The parties shall commence discovery on Friday, December 17, 2010.
22 Either party may propound discovery to another, or seek discovery from a third party,
23 upon reasonable notice under the circumstances, including the trial and discovery cut-off
24 dates.

25 b. Given the trial settings in this matter, and with the exception of South
26 Edge’s depositions of the Petitioning Creditors and Messrs. John McDonagh and Michael

1 Ross (all of which shall occur in New York on December 21-23, 2010), depositions shall
2 be set on not less than 10 calendar days' written notice, and all other formal discovery
3 shall be requested on not less than 10 calendar days' written notice, except as otherwise
4 agreed. Notwithstanding the time limits set by the Federal Rules or any additional time
5 provided for under Bankr. R. 9006(f), the parties agree that objections to discovery
6 requests will be served by email or personal delivery within 7 calendar days (by midnight
7 Pacific Standard Time) of the date of service of the request to which objections are made.
8 The parties further agree that substantive responses, including responses to interrogatories,
9 admissions, and/or document productions if applicable, will be complete within
10 10 calendar days of the service date of the request to which it responds.

11 c. Requests for admission shall be limited to the authenticity and
12 business record status of a document.

13 d. All discovery, including depositions, shall be completed by Tuesday,
14 January 18, 2011, except as otherwise agreed or for good cause shown.

15 e. The parties shall cooperate to resolve all discovery issues without
16 Court involvement to the greatest extent possible; but may bring discovery disputes to the
17 Court for resolution upon shortened time. The Court will resolve such disputes via
18 telephonic hearing.

19 f. Where a date referenced in this Order is a holiday or a weekend, the
20 parties intend for the deadline to be that holiday or weekend day, notwithstanding Fed. R.
21 Bankr. P. 9006.

22 g. The deadlines described in paragraphs (b) and (d) of this Section shall
23 not apply to witnesses and exhibits designated within 10 days of January 18, 2011.
24 Depositions with respect to such witnesses shall be set on not less than three calendar days
25 written notice.
26

1 8. **Disclosures.** No disclosures of the information described in Federal Rule of
2 Civil Procedure 26(a) as incorporated by Fed. R. Bankr. P. 1018, 7026 or 9014 shall be
3 required, unless requested by an interrogatory or at deposition.

4 9. **Expert Witnesses.** Petitioning Creditors shall disclose any expert witness
5 on or before January 7, 2011. Debtors shall disclose any expert witness on or before
6 January 14, 2011. A party disclosing an expert witness shall simultaneously identify the
7 subject matter and provide a CV with the designation. Any party shall disclose the
8 expert's proposed opinions via declaration not less than two business days before the
9 expert is deposed.

10 10. **Trustee Motion.** Debtor shall file and serve its opposition to the Trustee
11 motion on or before Friday, January 7, 2011. Movants shall file and serve any reply
12 memorandum on or before Friday, January 14, 2011.

13 11. **Involuntary Petition.** Debtor shall file and serve an answer to the
14 involuntary petition on or before Tuesday, January 4, 2011.

15 a. The deadline for creditors and other parties in interest to join in the
16 involuntary petition shall be Monday, January 10, 2011.

17 b. With respect to any motion filed in connection with the involuntary
18 petition, such motion shall be filed on or before Thursday, January 6, 2011 at 5:00 p.m.
19 (PST), a response shall be filed and served on or before Friday, January 14, 2011, and a
20 reply shall be filed and served on or before Friday, January 21, 2011 at 3:00 p.m. (PST).

21 c. Except as expressly provided herein, no motion shall be filed so that
22 the time for briefing leaves the Court less than 5 days to consider the briefs.

23 12. **Motion to Strike.** In response to Debtor's answer and/or motion to dismiss
24 the involuntary petition, creditors shall file and serve any motion seeking to strike such
25 responsive pleadings on or before Monday, January 10, 2011. A response shall be filed
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1 and served on or before Monday, January 17, 2011. Any reply shall be filed and served on
2 or before Friday, January 21, 2011.

3 13. **Foundation.** Any documents introduced at a deposition will be (rebutably)
4 presumed to be authentic absent an objection made at that deposition. Any document
5 introduced at a deposition which appears to be a business record will be (rebutably)
6 presumed to be a business record absent an objection made at that deposition.

7 14. **Trial Testimony.**

8 a. Direct testimony at the evidentiary hearings shall be received via
9 declaration(s) filed and served not less than 7 calendar days before the first date scheduled
10 for hearing on the matter. The declaration shall be admitted in evidence subject to any
11 objections (other than that the testimony is presented by way of declaration) so long as the
12 declarant is present and available in the courtroom for cross examination.

13 b. South Edge, on the one hand, and the Petitioning Creditors, on the
14 other hand, shall equally share the trial time.

15 15. **Witness and Exhibit Lists.**

16 a. The deadline for the parties to simultaneously file and serve their
17 witness and exhibit lists concerning the Trustee motion shall be January 11, 2011, subject
18 to reasonable amendment necessitated by any discovery completed before the January 18,
19 2010 discovery deadline.

20 b. The deadline for the parties to simultaneously file and serve their
21 witness and exhibit lists concerning the involuntary petition shall be January 17, 2011,
22 subject to reasonable amendment necessitated by any discovery completed before the
23 January 18, 2010 discovery deadline.

24 16. **Joint Pretrial Statement.** The parties shall jointly prepare and file a joint
25 pretrial statement not less than 3 business days before the applicable hearing, which may
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1 as to the involuntary petition include any additional material that a party might submit in a
2 trial brief.

3 17. **Trial Brief.** The parties will not file separate trial briefs.

4 18. **Page Limits.** Notwithstanding Local Rule 9014(e)(1) (regarding pages
5 limits), the page limits for all motions and opposition shall be 30 pages; the page limit for
6 all reply briefs shall be 15 pages.

7 19. **Streamlining.** The parties agree to endeavor not to repeat arguments and to
8 cross-reference to other pleadings to the maximum feasible extent. Exhibits previously
9 filed with the Court shall not be re-filed but may be incorporated by reference.

10 20. **Exhibit Numbering.** The parties will agree on consistent exhibit numbering
11 in depositions and trial.

12 21. **Deposition Designations.** Notwithstanding Local Rule 7032, any party
13 seeking to offer deposition excerpts shall file and serve deposition designations not less
14 than 5 calendar days before the hearing, and all other parties shall file and serve objections
15 and counter designations within 2 business days. Deposition transcripts may be
16 designated pending their correction, review and potential signature by the witness.

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1 So stipulated:

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